IN THE MATTER OF THE PETITION FOR THE WRIT OF AMPARO AND THE WRIT OF HABEAS DATA IN FAVOR OF MELISSA C. ROXAS, MELISSA C. ROXAS, PETITIONER, VS. GLORIA MACAPAGAL-ARROYO, GILBERT...

G.R. No. 189155. September 07, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

At bench is a Petition For Review on Certiorari[1] assailing the Decision[2] dated 26 August 2009 of the Court of Appeals in CA-G.R. SP No. 00036-WRA -- a petition that was commenced jointly under the Rules on the Writ of Amparo (Amparo Rule) and Habeas Data (Habeas Data Rule). In its decision, the Court of Appeals extended to the petitioner, Melissa C. Roxas, the privilege of the writs of amparo and habeas data but denied the latter's prayers for an inspection order, production order and return of specified personal belongings. The fallo of the decision reads:

> WHEREFORE, the Petition is PARTIALLY MERITORIOUS. This Court hereby grants Petitioner the privilege of the Writ of Amparo and Habeas Data.
>
> Accordingly, Respondents are enjoined to refrain from distributing or causing the distribution to the public of any records in whatever form, reports, documents or similar papers relative to Petitioner's Melissa C. Roxas, and/or Melissa Roxas; alleged ties to the CPP-NPA or pertinently related to the complained incident. Petitioner's prayers for an inspection order, production order and for the return of the specified personal belongings are denied for lack of merit. Although there is no evidence that Respondents are responsible for the abduction, detention or torture of the Petitioner, said Respondents pursuant to their legally mandated duties are, nonetheless, ordered to continue/complete the investigation of this incident with the end in view of prosecuting those who are responsible. Respondents are also ordered to provide protection to the Petitioner and her family while in the Philippines against any and all forms of harassment, intimidation and coercion as may be relevant to the grant of these reliefs.[3]

We begin with the petitioner's allegations.

Petitioner is an American citizen of Filipino descent.[4] While in the United States, petitioner enrolled in an exposure program to the Philippines with the group Bagong Alyansang Makabayan-United States of America (BAYAN-USA) of which she is a member.[5] During the course of her immersion, petitioner toured various provinces and towns of Central Luzon and, in April of 2009, she volunteered to join members of BAYAN-Tarlac[6] in conducting an initial health survey in La Paz, Tarlac for a future medical mission.[7]

In pursuit of her volunteer work, petitioner brought her passport, wallet with Fifteen Thousand Pesos (P15,000.00) in cash, journal, digital camera with memory card, laptop computer, external hard disk, IPOD,[8] wristwatch, sphygmomanometer, stethoscope and medicines.[9]

After doing survey work on 19 May 2009, petitioner and her companions, Juanito Carabeo (Carabeo) and John

Edward Jandoc (Jandoc), decided to rest in the house of one Mr. Jesus Paolo (Mr. Paolo) in Sitio Bagong Sikat, Barangay Kapanikian, La Paz, Tarlac.[10] At around 1:30 in the afternoon, however, petitioner, her companions and Mr. Paolo were startled by the loud sounds of someone banging at the front door and a voice demanding that they open up.[11]

Suddenly, fifteen (15) heavily armed men forcibly opened the door, barged inside and ordered petitioner and her companions to lie on the ground face down.[12] The armed men were all in civilian clothes and, with the exception of their leader, were also wearing bonnets to conceal their faces.[13]

Petitioner tried to protest the intrusion, but five (5) of the armed men ganged up on her and tied her hands.[14] At this juncture, petitioner saw the other armed men herding Carabeo and Jandoc, already blindfolded and taped at their mouths, to a nearby blue van. Petitioner started to shout her name.[15] Against her vigorous resistance, the armed men dragged petitioner towards the van--bruising her arms, legs and knees.[16] Once inside the van, but before she can be blindfolded, petitioner was able to see the face of one of the armed men sitting beside her.[17] The van then sped away.

After about an hour of traveling, the van stopped.[18] Petitioner, Carabeo and Jandoc were ordered to alight.[19] After she was informed that she is being detained for being a member of the Communist Party of the Philippines-New People's Army (CPP-NPA), petitioner was separated from her companions and was escorted to a room that she believed was a jail cell from the sound of its metal doors.[20] From there, she could hear the sounds of gunfire, the noise of planes taking off and landing and some construction bustle.[21] She inferred that she was taken to the military camp of Fort Magsaysay in Laur, Nueva Ecija.[22]

What followed was five (5) straight days of interrogation coupled with torture.[23] The thrust of the interrogations was to convince petitioner to abandon her communist beliefs in favor of returning to "the fold."[24] The torture, on the other hand, consisted of taunting, choking, boxing and suffocating the petitioner.[25]

Throughout the entirety of her ordeal, petitioner was made to suffer in blindfolds even in her sleep.[26] Petitioner was only relieved of her blindfolds when she was allowed to take a bath, during which she became acquainted with a woman named "Rose" who bathed her.[27] There were also a few times when she cheated her blindfold and was able to peek at her surroundings.[28]

Despite being deprived of sight, however, petitioner was still able to learn the names of three of her interrogators who introduced themselves to her as "Dex," "James" and "RC."[29] "RC" even told petitioner that those who tortured her came from the "Special Operations Group," and that she was abducted because her name is included in the "Order of Battle."[30]

On 25 May 2009, petitioner was finally released and returned to her uncle's house in Quezon City.[31] Before being released, however, the abductors gave petitioner a cellular phone with a SIM[32] card, a slip of paper containing an e-mail address with password,[33] a plastic bag containing biscuits and books,[34] the handcuffs used on her, a blouse and a pair of shoes.[35] Petitioner was also sternly warned not to report the incident to the group Karapatan or something untoward will happen to her and her family.[36]

Sometime after her release, petitioner continued to receive calls from RC via the cellular phone given to her.[37] Out of apprehension that she was being monitored and also fearing for the safety of her family, petitioner threw away the cellular phone with a SIM card.

Seeking sanctuary against the threat of future harm as well as the suppression of any existing government files or records linking her to the communist movement, petitioner filed a Petition for the Writs of Amparo and Habeas Data before this Court on 1 June 2009.[38] Petitioner impleaded public officials occupying the uppermost

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echelons of the military and police hierarchy as respondents, on the belief that it was government agents who were behind her abduction and torture. Petitioner likewise included in her suit "Rose," "Dex" and "RC."[39]

The Amparo and Habeas Data petition prays that: (1) respondents be enjoined from harming or even approaching petitioner and her family; (2) an order be issued allowing the inspection of detention areas in the 7[th] Infantry Division, Fort Magsaysay, Laur, Nueva Ecija; (3) respondents be ordered to produce documents relating to any report on the case of petitioner including, but not limited to, intelligence report and operation reports of the 7[th] Infantry Division, the Special Operations Group of the Armed Forces of the Philippines (AFP) and its subsidiaries or branch/es prior to, during and subsequent to 19 May 2009; (4) respondents be ordered to expunge from the records of the respondents any document pertinent or connected to Melissa C. Roxas, Melissa Roxas or any name which sounds the same; and (5) respondents be ordered to return to petitioner her journal, digital camera with memory card, laptop computer, external hard disk, IPOD, wristwatch, sphygmomanometer, stethoscope, medicines and her P15,000.00 cash.[40]

In a Resolution dated 9 June 2009, this Court issued the desired writs and referred the case to the Court of Appeals for hearing, reception of evidence and appropriate action.[41] The Resolution also directed the respondents to file their verified written return.[42]

On 18 June 2009, the Office of the Solicitor General (OSG), filed a Return of the Writs[43] on behalf of the public officials impleaded as respondents.

We now turn to the defenses interposed by the public respondents.

The public respondents label petitioner's alleged abduction and torture as "stage managed."[44] In support of their accusation, the public respondents principally rely on the statement of Mr. Paolo, as contained in the Special Report[45] of the La Paz Police Station. In the Special Report, Mr. Paolo disclosed that, prior to the purported abduction, petitioner and her companions instructed him and his two sons to avoid leaving the house.[46] From this statement, the public respondents drew the distinct possibility that, except for those already inside Mr. Paolo's house, nobody else has any way of knowing where petitioner and her companions were at the time they were supposedly abducted.[47] This can only mean, the public respondents concluded, that if ever there was any "abduction" it must necessarily have been planned by, or done with the consent of, the petitioner and her companions themselves.[48]

Public respondents also cited the Medical Certificate[49] of the petitioner, as actually belying her claims that she was subjected to serious torture for five (5) days. The public respondents noted that while the petitioner alleges that she was choked and boxed by her abductors--inflictions that could have easily produced remarkable bruises--her Medical Certificate only shows abrasions in her wrists and knee caps.[50]

For the public respondents, the above anomalies put in question the very authenticity of petitioner's alleged abduction and torture, more so any military or police involvement therein. Hence, public respondents conclude that the claims of abduction and torture was no more than a charade fabricated by the petitioner to put the government in bad light, and at the same time, bring great media mileage to her and the group that she represents.[51]

Nevertheless, even assuming the abduction and torture to be genuine, the public respondents insist on the dismissal of the Amparo and Habeas Data petition based on the following grounds: (a) as against respondent President Gloria Macapagal-Arroyo, in particular, because of her immunity from suit,[52] and (b) as against all of the public respondents, in general, in view of the absence of any specific allegation in the petition that they had participated in, or at least authorized, the commission of such atrocities.[53]

Finally, the public respondents posit that they had not been remiss in their duty to ascertain the truth behind the allegations of the petitioner.[54] In both the police and military arms of the government machinery, inquiries were set-up in the following manner:

Police Action

Police authorities first learned of the purported abduction around 4:30 o'clock in the afternoon of 19 May 2009, when Barangay Captain Michael M. Manuel came to the La Paz Municipal Police Station to report the presence of heavily armed men somewhere in Barangay Kapanikian.[55] Acting on the report, the police station launched an initial investigation.[56]

The initial investigation revolved around the statement of Mr. Paolo, who informed the investigators of an abduction incident involving three (3) persons--later identified as petitioner Melissa Roxas, Juanito Carabeo and John Edward Jandoc--who were all staying in his house.[57] Mr. Paolo disclosed that the abduction occurred around 1:30 o'clock in the afternoon, and was perpetrated by about eight (8) heavily armed men who forced their way inside his house.[58] Other witnesses to the abduction also confirmed that the armed men used a dark blue van with an unknown plate number and two (2) Honda XRM motorcycles with no plate numbers.[59]

At 5:00 o'clock in the afternoon of 19 May 2009, the investigators sent a Flash Message to the different police stations surrounding La Paz, Tarlac, in an effort to track and locate the van and motorcycles of the suspects. Unfortunately, the effort yielded negative results.[60]

On 20 May 2009, the results of the initial investigation were included in a Special Report[61] that was transmitted to the Tarlac Police Provincial Office, headed by public respondent P/S Supt. Rudy Lacadin (Supt. Lacadin). Public respondent Supt. Lacadin, in turn, informed the Regional Police Office of Region 3 about the abduction.[62] Follow-up investigations were, at the same time, pursued.[63]

On 26 May 2009, public respondent PC/Supt. Leon Nilo Dela Cruz, as Director of the Regional Police Office for Region 3, caused the creation of Special Investigation Task Group--CAROJAN (Task Group CAROJAN) to conduct an in-depth investigation on the abduction of the petitioner, Carabeo and Jandoc.[64]

Task Group CAROJAN started its inquiry by making a series of background examinations on the victims of the purported abduction, in order to reveal the motive behind the abduction and, ultimately, the identity of the perpetrators.[65] Task Group CAROJAN also maintained liaisons with Karapatan and the Alliance for Advancement of People's Rights--organizations trusted by petitioner--in the hopes of obtaining the latter's participation in the ongoing investigations.[66] Unfortunately, the letters sent by the investigators requesting for the availability of the petitioner for inquiries were left unheeded.[67]

The progress of the investigations conducted by Task Group CAROJAN had been detailed in the reports[68] that it submitted to public respondent General Jesus Ame Verzosa, the Chief of the Philippine National Police. However, as of their latest report dated 29 June 2009, Task Group CAROJAN is still unable to make a definitive finding as to the true identity and affiliation of the abductors--a fact that task group CAROJAN attributes to the refusal of the petitioner, or any of her fellow victims, to cooperate in their investigative efforts.[69]

Military Action

Public respondent Gilbert Teodoro, the Secretary of National Defense, first came to know about the alleged abduction and torture of the petitioner upon receipt of the Resolution of this Court directing him and the other respondents to file their return.[70] Immediately thereafter, he issued a Memorandum Directive[71] addressed to the Chief of Staff of the AFP, ordering the latter, among others, to conduct an inquiry to determine the validity of

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the accusation of military involvement in the abduction.[72]

Acting pursuant to the Memorandum Directive, public respondent General Victor S. Ibrado, the AFP Chief of Staff, sent an AFP Radio Message[73] addressed to public respondent Lieutenant General Delfin N. Bangit (Lt. Gen. Bangit), the Commanding General of the Army, relaying the order to cause an investigation on the abduction of the petitioner.[74]

For his part, and taking cue from the allegations in the amparo petition, public respondent Lt. Gen. Bangit instructed public respondent Major General Ralph A. Villanueva (Maj. Gen. Villanueva), the Commander of the 7[th] Infantry Division of the Army based in Fort Magsaysay, to set in motion an investigation regarding the possible involvement of any personnel assigned at the camp in the purported abduction of the petitioner.[75] In turn, public respondent Maj. Gen. Villanueva tapped the Office of the Provost Marshal (OPV) of the 7[th] Infantry Division, to conduct the investigation.[76]

On 23 June 2009, the OPV of the 7[th] Infantry Division released an Investigation Report[77] detailing the results of its inquiry. In substance, the report described petitioner's allegations as "opinionated" and thereby cleared the military from any involvement in her alleged abduction and torture.[78]

The Decision of the Court of Appeals

In its Decision,[79] the Court of Appeals gave due weight and consideration to the petitioner's version that she was indeed abducted and then subjected to torture for five (5) straight days. The appellate court noted the sincerity and resolve by which the petitioner affirmed the contents of her affidavits in open court, and was thereby convinced that the latter was telling the truth.[80]

On the other hand, the Court of Appeals disregarded the argument of the public respondents that the abduction of the petitioner was "stage managed," as it is merely based on an unfounded speculation that only the latter and her companions knew where they were staying at the time they were forcibly taken.[81] The Court of Appeals further stressed that the Medical Certificate of the petitioner can only affirm the existence of a true abduction, as its findings are reflective of the very injuries the latter claims to have sustained during her harrowing ordeal, particularly when she was handcuffed and then dragged by her abductors onto their van.[82]

The Court of Appeals also recognized the existence of an ongoing threat against the security of the petitioner, as manifested in the attempts of "RC" to contact and monitor her, even after she was released.[83] This threat, according to the Court of Appeals, is all the more compounded by the failure of the police authorities to identify the material perpetrators who are still at large.[84] Thus, the appellate court extended to the petitioner the privilege of the writ of amparo by directing the public respondents to afford protection to the former, as well as continuing, under the norm of extraordinary diligence, their existing investigations involving the abduction.[85]

The Court of Appeals likewise observed a transgression of the right to informational privacy of the petitioner, noting the existence of "records of investigations" that concerns the petitioner as a suspected member of the CPP-NPA.[86] The appellate court derived the existence of such records from a photograph and video file presented in a press conference by party-list representatives Jovito Palparan (Palparan) and Pastor Alcover (Alcover), which allegedly show the petitioner participating in rebel exercises. Representative Alcover also revealed that the photograph and video came from a female CPP-NPA member who wanted out of the organization. According to the Court of Appeals, the proliferation of the photograph and video, as well as any form of media, insinuating that petitioner is part of the CPP-NPA does not only constitute a violation of the right to privacy of the petitioner but also puts further strain on her already volatile security.[87] To this end, the appellate court granted the privilege of the writ of habeas data mandating the public respondents to refrain from

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distributing to the public any records, in whatever form, relative to petitioner's alleged ties with the CPP-NPA or pertinently related to her abduction and torture.[88]

The foregoing notwithstanding, however, the Court of Appeals was not convinced that the military or any other person acting under the acquiescence of the government, were responsible for the abduction and torture of the petitioner.[89] The appellate court stressed that, judging by her own statements, the petitioner merely "believed" that the military was behind her abduction.[90] Thus, the Court of Appeals absolved the public respondents from any complicity in the abduction and torture of petitioner.[91] The petition was likewise dismissed as against public respondent President Gloria Macapagal-Arroyo, in view of her immunity from suit.[92]

Accordingly, the petitioner's prayers for the return of her personal belongings were denied.[93] Petitioner's prayers for an inspection order and production order also met the same fate.[94]

Hence, this appeal by the petitioner.

AMPARO

A.

Petitioner first contends that the Court of Appeals erred in absolving the public respondents from any responsibility in her abduction and torture.[95] Corollary to this, petitioner also finds fault on the part of Court of Appeals in denying her prayer for the return of her personal belongings.[96]

Petitioner insists that the manner by which her abduction and torture was carried out, as well as the sounds of construction, gun-fire and airplanes that she heard while in detention, as these were detailed in her two affidavits and affirmed by her in open court, are already sufficient evidence to prove government involvement.[97]

Proceeding from such assumption, petitioner invokes the doctrine of command responsibility to implicate the high-ranking civilian and military authorities she impleaded as respondents in her amparo petition.[98] Thus, petitioner seeks from this Court a pronouncement holding the respondents as complicit in her abduction and torture, as well as liable for the return of her belongings.[99]

Command Responsibility in Amparo Proceedings

It must be stated at the outset that the use by the petitioner of the doctrine of command responsibility as the justification in impleading the public respondents in her amparo petition, is legally inaccurate, if not incorrect. The doctrine of command responsibility is a rule of substantive law that establishes liability and, by this account, cannot be a proper legal basis to implead a party-respondent in an amparo petition.[100]

The case of Rubrico v. Arroyo,[101] which was the first to examine command responsibility in the context of an amparo proceeding, observed that the doctrine is used to pinpoint liability. Rubrico notes that:[102]

> The evolution of the command responsibility doctrine finds its context in the development of laws of war and armed combats. According to Fr. Bernas, "command responsibility," in its simplest terms, means the "responsibility of commanders for crimes committed by subordinate members of the armed forces or other persons subject to their control in international wars or domestic conflict."[103] In this sense, command responsibility is properly a form of criminal complicity. The Hague Conventions of 1907 adopted the doctrine of command responsibility,[104] foreshadowing the present-day precept of holding a superior accountable for the atrocities committed by his subordinates should he be remiss in his duty of control over them. As then formulated, command responsibility is "an omission mode of individual criminal liability," whereby the superior is made responsible for crimes committed by his subordinates for failing to prevent or punish the perpetrators[105] (as opposed to crimes he ordered). (Emphasis in the orginal, underscoring supplied)

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Since the application of command responsibility presupposes an imputation of individual liability, it is more aptly invoked in a full-blown criminal or administrative case rather than in a summary amparo proceeding. The obvious reason lies in the nature of the writ itself:

The writ of amparo is a protective remedy aimed at providing judicial relief consisting of the appropriate remedial measures and directives that may be crafted by the court, in order to address specific violations or threats of violation of the constitutional rights to life, liberty or security.[106] While the principal objective of its proceedings is the initial determination of whether an enforced disappearance, extralegal killing or threats thereof had transpired--the writ does not, by so doing, fix liability for such disappearance, killing or threats, whether that may be criminal, civil or administrative under the applicable substantive law.[107] The rationale underpinning this peculiar nature of an amparo writ has been, in turn, clearly set forth in the landmark case of The Secretary of National Defense v. Manalo:[108]

> x x x The remedy provides rapid judicial relief as it partakes of a summary proceeding that requires only substantial evidence to make the appropriate reliefs available to the petitioner; it is not an action to determine criminal guilt requiring proof beyond reasonable doubt, or liability for damages requiring preponderance of evidence, or administrative responsibility requiring substantial evidence that will require full and exhaustive proceedings.[109](Emphasis supplied)

It must be clarified, however, that the inapplicability of the doctrine of command responsibility in an amparo proceeding does not, by any measure, preclude impleading military or police commanders on the ground that the complained acts in the petition were committed with their direct or indirect acquiescence. In which case, commanders may be impleaded--not actually on the basis of command responsibility--but rather on the ground of their responsibility, or at least accountability. In Razon v. Tagitis,[110] the distinct, but interrelated concepts of responsibility and accountability were given special and unique significations in relation to an amparo proceeding, to wit:

> x x x Responsibility refers to the extent the actors have been established by substantial evidence to have participated in whatever way, by action or omission, in an enforced disappearance, as a measure of the remedies this Court shall craft, among them, the directive to file the appropriate criminal and civil cases against the responsible parties in the proper courts. Accountability, on the other hand, refers to the measure of remedies that should be addressed to those who exhibited involvement in the enforced disappearance without bringing the level of their complicity to the level of responsibility defined above; or who are imputed with knowledge relating to the enforced disappearance and who carry the burden of disclosure; or those who carry, but have failed to discharge, the burden of extraordinary diligence in the investigation of the enforced disappearance.

Responsibility of Public Respondents

At any rate, it is clear from the records of the case that the intent of the petitioner in impleading the public respondents is to ascribe some form of responsibility on their part, based on her assumption that they, in one way or the other, had condoned her abduction and torture.[111]

To establish such assumption, petitioner attempted to show that it was government agents who were behind her ordeal. Thus, the petitioner calls attention to the circumstances surrounding her abduction and torture--i.e., the forcible taking in broad daylight; use of vehicles with no license plates; utilization of blindfolds; conducting interrogations to elicit communist inclinations; and the infliction of physical abuse--which, according to her, is consistent with the way enforced disappearances are being practiced by the military or other state forces.[112]

Moreover, petitioner also claims that she was held inside the military camp Fort Magsaysay--a conclusion that she was able to infer from the travel time required to reach the place where she was actually detained, and also from

the sounds of construction, gun-fire and airplanes she heard while thereat.[113]

We are not impressed. The totality of the evidence presented by the petitioner does not inspire reasonable conclusion that her abductors were military or police personnel and that she was detained at Fort Magsaysay.

First. The similarity between the circumstances attending a particular case of abduction with those surrounding previous instances of enforced disappearances does not, necessarily, carry sufficient weight to prove that the government orchestrated such abduction. We opine that insofar as the present case is concerned, the perceived similarity cannot stand as substantial evidence of the involvement of the government.

In amparo proceedings, the weight that may be accorded to parallel circumstances as evidence of military involvement depends largely on the availability or non-availability of other pieces of evidence that has the potential of directly proving the identity and affiliation of the perpetrators. Direct evidence of identity, when obtainable, must be preferred over mere circumstantial evidence based on patterns and similarity, because the former indubitably offers greater certainty as to the true identity and affiliation of the perpetrators. An amparo court cannot simply leave to remote and hazy inference what it could otherwise clearly and directly ascertain.

In the case at bench, petitioner was, in fact, able to include in her Offer of Exhibits,[114] the cartographic sketches[115] of several of her abductors whose faces she managed to see. To the mind of this Court, these cartographic sketches have the undeniable potential of giving the greatest certainty as to the true identity and affiliation of petitioner's abductors. Unfortunately for the petitioner, this potential has not been realized in view of the fact that the faces described in such sketches remain unidentified, much less have been shown to be that of any military or police personnel. Bluntly stated, the abductors were not proven to be part of either the military or the police chain of command.

Second. The claim of the petitioner that she was taken to Fort Magsaysay was not adequately established by her mere estimate of the time it took to reach the place where she was detained and by the sounds that she heard while thereat. Like the Court of Appeals, We are not inclined to take the estimate and observations of the petitioner as accurate on its face--not only because they were made mostly while she was in blindfolds, but also in view of the fact that she was a mere sojourner in the Philippines, whose familiarity with Fort Magsaysay and the travel time required to reach it is in itself doubtful.[116] With nothing else but obscure observations to support it, petitioner's claim that she was taken to Fort Magsaysay remains a mere speculation.

In sum, the petitioner was not able to establish to a concrete point that her abductors were actually affiliated, whether formally or informally, with the military or the police organizations. Neither does the evidence at hand prove that petitioner was indeed taken to the military camp Fort Magsaysay to the exclusion of other places. These evidentiary gaps, in turn, make it virtually impossible to determine whether the abduction and torture of the petitioner was in fact committed with the acquiescence of the public respondents. On account of this insufficiency in evidence, a pronouncement of responsibility on the part of the public respondents, therefore, cannot be made.

Prayer for the Return of Personal Belongings

This brings Us to the prayer of the petitioner for the return of her personal belongings.

In its decision, the Court of Appeals denied the above prayer of the petitioner by reason of the failure of the latter to prove that the public respondents were involved in her abduction and torture.[117] We agree with the conclusion of the Court of Appeals, but not entirely with the reason used to support it. To the mind of this Court, the prayer of the petitioner for the return of her belongings is doomed to fail regardless of whether there is sufficient evidence to hold public respondents responsible for the abduction of the petitioner.

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In the first place, an order directing the public respondents to return the personal belongings of the petitioner is already equivalent to a conclusive pronouncement of liability. The order itself is a substantial relief that can only be granted once the liability of the public respondents has been fixed in a full and exhaustive proceeding. As already discussed above, matters of liability are not determinable in a mere summary amparo proceeding.[118]

But perhaps the more fundamental reason in denying the prayer of the petitioner, lies with the fact that a person's right to be restituted of his property is already subsumed under the general rubric of property rights--which are no longer protected by the writ of amparo.[119] Section 1 of the Amparo Rule,[120] which defines the scope and extent of the writ, clearly excludes the protection of property rights.

B.

The next error raised by the petitioner is the denial by the Court of Appeals of her prayer for an inspection of the detention areas of Fort Magsaysay.[121]

Considering the dearth of evidence concretely pointing to any military involvement in petitioner's ordeal, this Court finds no error on the part of the Court of Appeals in denying an inspection of the military camp at Fort Magsaysay. We agree with the appellate court that a contrary stance would be equivalent to sanctioning a "fishing expedition," which was never intended by the Amparo Rule in providing for the interim relief of inspection order.[122] Contrary to the explicit position[123] espoused by the petitioner, the Amparo Rule does not allow a "fishing expedition" for evidence.

An inspection order is an interim relief designed to give support or strengthen the claim of a petitioner in an amparo petition, in order to aid the court before making a decision.[124] A basic requirement before an amparo court may grant an inspection order is that the place to be inspected is reasonably determinable from the allegations of the party seeking the order. While the Amparo Rule does not require that the place to be inspected be identified with clarity and precision, it is, nevertheless, a minimum for the issuance of an inspection order that the supporting allegations of a party be sufficient in itself, so as to make a prima facie case. This, as was shown above, petitioner failed to do.

Since the very estimates and observations of the petitioner are not strong enough to make out a prima facie case that she was detained in Fort Magsaysay, an inspection of the military camp cannot be ordered. An inspection order cannot issue on the basis of allegations that are, in themselves, unreliable and doubtful.

HABEAS DATA

As earlier intimated, the Court of Appeals granted to the petitioner the privilege of the writ of habeas data, by enjoining the public respondents from "distributing or causing the distribution to the public any records in whatever form, reports, documents or similar papers" relative to the petitioner's "alleged ties with the CPP-NPA or pertinently related to her abduction and torture." Though not raised as an issue in this appeal, this Court is constrained to pass upon and review this particular ruling of the Court of Appeals in order to rectify, what appears to Us, an error infecting the grant.

For the proper appreciation of the rationale used by the Court of Appeals in granting the privilege of the writ of habeas data, We quote hereunder the relevant portion[125] of its decision:

> Under these premises, Petitioner prayed that all the records, intelligence reports and reports on the investigations conducted on Melissa C. Roxas or Melissa Roxas be produced and eventually expunged from the records. Petitioner claimed to be included in the Government's Order of Battle under Oplan Bantay Laya which listed political opponents against whom false criminal charges were filed based on made up and perjured

> information.
>
> Pending resolution of this petition and before Petitioner could testify before Us, Ex-army general Jovito Palaparan, Bantay party-list, and Pastor Alcover of the Alliance for Nationalism and Democracy party-list held a press conference where they revealed that they received an information from a female NPA rebel who wanted out of the organization, that Petitioner was a communist rebel. Alcover claimed that said information reached them thru a letter with photo of Petitioner holding firearms at an NPA training camp and a video CD of the training exercises.
>
> Clearly, and notwithstanding Petitioner's denial that she was the person in said video, there were records of other investigations on Melissa C. Roxas or Melissa Roxas which violate her right to privacy. Without a doubt, reports of such nature have reasonable connections, one way or another, to petitioner's abduction where she claimed she had been subjected to cruelties and dehumanizing acts which nearly caused her life precisely due to allegation of her alleged membership in the CPP-NPA. And if said report or similar reports are to be continuously made available to the public, Petitioner's security and privacy will certainly be in danger of being violated or transgressed by persons who have strong sentiments or aversion against members of this group. The unregulated dissemination of said unverified video CD or reports of Petitioner's alleged ties with the CPP-NPA indiscriminately made available for public consumption without evidence of its authenticity or veracity certainly violates Petitioner's right to privacy which must be protected by this Court. We, thus, deem it necessary to grant Petitioner the privilege of the Writ of Habeas Data. (Emphasis supplied).

The writ of habeas data was conceptualized as a judicial remedy enforcing the right to privacy, most especially the right to informational privacy of individuals.[126] The writ operates to protect a person's right to control information regarding himself, particularly in the instances where such information is being collected through unlawful means in order to achieve unlawful ends.

Needless to state, an indispensable requirement before the privilege of the writ may be extended is the showing, at least by substantial evidence, of an actual or threatened violation of the right to privacy in life, liberty or security of the victim.[127] This, in the case at bench, the petitioner failed to do.

The main problem behind the ruling of the Court of Appeals is that there is actually no evidence on record that shows that any of the public respondents had violated or threatened the right to privacy of the petitioner. The act ascribed by the Court of Appeals to the public respondents that would have violated or threatened the right to privacy of the petitioner, i.e., keeping records of investigations and other reports about the petitioner's ties with the CPP-NPA, was not adequately proven--considering that the origin of such records were virtually unexplained and its existence, clearly, only inferred by the appellate court from the video and photograph released by Representatives Palparan and Alcover in their press conference. No evidence on record even shows that any of the public respondents had access to such video or photograph.

In view of the above considerations, the directive by the Court of Appeals enjoining the public respondents from "distributing or causing the distribution to the public any records in whatever form, reports, documents or similar papers" relative to the petitioner's "alleged ties with the CPP-NPA," appears to be devoid of any legal basis. The public respondents cannot be ordered to refrain from distributing something that, in the first place, it was not proven to have.

Verily, until such time that any of the public respondents were found to be actually responsible for the abduction and torture of the petitioner, any inference regarding the existence of reports being kept in violation of the petitioner's right to privacy becomes farfetched, and premature.

For these reasons, this Court must, at least in the meantime, strike down the grant of the privilege of the writ of habeas data.

DISPOSITION OF THE CASE

Our review of the evidence of the petitioner, while telling of its innate insufficiency to impute any form of responsibility on the part of the public respondents, revealed two important things that can guide Us to a proper disposition of this case. One, that further investigation with the use of extraordinary diligence must be made in order to identify the perpetrators behind the abduction and torture of the petitioner; and two, that the Commission on Human Rights (CHR), pursuant to its Constitutional mandate to "investigate all forms of human rights violations involving civil and political rights and to provide appropriate legal measures for the protection of human rights,"[128] must be tapped in order to fill certain investigative and remedial voids.

Further Investigation Must Be Undertaken

Ironic as it seems, but part and parcel of the reason why the petitioner was not able to adduce substantial evidence proving her allegations of government complicity in her abduction and torture, may be attributed to the incomplete and one-sided investigations conducted by the government itself. This "awkward" situation, wherein the very persons alleged to be involved in an enforced disappearance or extralegal killing are, at the same time, the very ones tasked by law to investigate the matter, is a unique characteristic of these proceedings and is the main source of the "evidentiary difficulties" faced by any petitioner in any amparo case.[129]

Cognizant of this situation, however, the Amparo Rule placed a potent safeguard--requiring the "respondent who is a public official or employee" to prove that no less than "extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty."[130] Thus, unless and until any of the public respondents is able to show to the satisfaction of the amparo court that extraordinary diligence has been observed in their investigations, they cannot shed the allegations of responsibility despite the prevailing scarcity of evidence to that effect.

With this in mind, We note that extraordinary diligence, as required by the Amparo Rule, was not fully observed in the conduct of the police and military investigations in the case at bar.

A perusal of the investigation reports submitted by Task Group CAROJAN shows modest effort on the part of the police investigators to identify the perpetrators of the abduction. To be sure, said reports are replete with background checks on the victims of the abduction, but are, at the same time, comparatively silent as to other concrete steps the investigators have been taking to ascertain the authors of the crime. Although conducting a background investigation on the victims is a logical first step in exposing the motive behind the abduction--its necessity is clearly outweighed by the need to identify the perpetrators, especially in light of the fact that the petitioner, who was no longer in captivity, already came up with allegations about the motive of her captors.

Instead, Task Group CAROJAN placed the fate of their investigations solely on the cooperation or non-cooperation of the petitioner--who, they claim, was less than enthusiastic in participating in their investigative efforts.[131] While it may be conceded that the participation of the petitioner would have facilitated the progress of Task Group CAROJAN's investigation, this Court believes that the former's reticence to cooperate is hardly an excuse for Task Group CAROJAN not to explore other means or avenues from which they could obtain relevant leads.[132] Indeed, while the allegations of government complicity by the petitioner cannot, by themselves, hold up as adequate evidence before a court of law--they are, nonetheless, a vital source of valuable investigative leads that must be pursued and verified, if only to comply with the high standard of diligence required by the Amparo Rule in the conduct of investigations.

Assuming the non-cooperation of the petitioner, Task Group CAROJAN's reports still failed to explain why it never considered seeking the assistance of Mr. Jesus Paolo--who, along with the victims, is a central witness to

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the abduction. The reports of Task Group CAROJAN is silent in any attempt to obtain from Mr. Paolo, a cartographic sketch of the abductors or, at the very least, of the one who, by petitioner's account, was not wearing any mask.

The recollection of Mr. Paolo could have served as a comparative material to the sketches included in petitioner's offer of exhibits that, it may be pointed out, were prepared under the direction of, and first submitted to, the CHR pursuant to the latter's independent investigation on the abduction and torture of the petitioner.[133] But as mentioned earlier, the CHR sketches remain to be unidentified as of this date.

In light of these considerations, We agree with the Court of Appeals that further investigation under the norm of extraordinary diligence should be undertaken. This Court simply cannot write finis to this case, on the basis of an incomplete investigation conducted by the police and the military. In a very real sense, the right to security of the petitioner is continuously put in jeopardy because of the deficient investigation that directly contributes to the delay in bringing the real perpetrators before the bar of justice.

To add teeth to the appellate court's directive, however, We find it fitting, nay, necessary to shift the primary task of conducting further investigations on the abduction and torture of the petitioner upon the CHR.[134] We note that the CHR, unlike the police or the military, seems to enjoy the trust and confidence of the petitioner--as evidenced by her attendance and participation in the hearings already conducted by the commission.[135] Certainly, it would be reasonable to assume from such cooperation that the investigations of the CHR have advanced, or at the very least, bears the most promise of advancing farther, in terms of locating the perpetrators of the abduction, and is thus, vital for a final resolution of this petition. From this perspective, We also deem it just and appropriate to relegate the task of affording interim protection to the petitioner, also to the CHR.

Hence, We modify the directive of the Court of the Appeals for further investigation, as follows--

1.)

Appointing the CHR as the lead agency tasked with conducting further investigation regarding the abduction and torture of the petitioner. Accordingly, the CHR shall, under the norm of extraordinary diligence, take or continue to take the necessary steps: (a) to identify the persons described in the cartographic sketches submitted by the petitioner, as well as their whereabouts; and (b) to pursue any other leads relevant to petitioner's abduction and torture.

2.)

Directing the incumbent Chief of the Philippine National Police (PNP), or his successor, and the incumbent Chief of Staff of the AFP, or his successor, to extend assistance to the ongoing investigation of the CHR, including but not limited to furnishing the latter a copy of its personnel records circa the time of the petitioner's abduction and torture, subject to reasonable regulations consistent with the Constitution and existing laws.

3.)

Further directing the incumbent Chief of the PNP, or his successor, to furnish to this Court, the Court of Appeals, and the petitioner or her representative, a copy of the reports of its investigations and their recommendations, other than those that are already part of the records of this case, within ninety (90) days from receipt of this decision.

4.)

Further directing the CHR to (a) furnish to the Court of Appeals within ninety (90) days from receipt of this decision, a copy of the reports on its investigation and its corresponding recommendations; and to (b) provide or

continue to provide protection to the petitioner during her stay or visit to the Philippines, until such time as may hereinafter be determined by this Court.

Accordingly, this case must be referred back to the Court of Appeals, for the purposes of monitoring compliance with the above directives and determining whether, in light of any recent reports or recommendations, there would already be sufficient evidence to hold any of the public respondents responsible or, at least, accountable. After making such determination, the Court of Appeals shall submit its own report with recommendation to this Court for final action. The Court of Appeals will continue to have jurisdiction over this case in order to accomplish its tasks under this decision.

WHEREFORE, the instant petition is PARTIALLY MERITORIOUS. We hereby render a decision:

1.)

AFFIRMING the denial of the petitioner's prayer for the return of her personal belongings;

2.)

AFFIRMING the denial of the petitioner's prayer for an inspection of the detention areas of Fort Magsaysay.

3.)

REVERSING the grant of the privilege of habeas data, without prejudice, however, to any modification that this Court may make on the basis of the investigation reports and recommendations submitted to it under this decision.

4.)

MODIFYING the directive that further investigation must be undertaken, as follows--

a.

APPOINTING the Commission on Human Rights as the lead agency tasked with conducting further investigation regarding the abduction and torture of the petitioner. Accordingly, the Commission on Human Rights shall, under the norm of extraordinary diligence, take or continue to take the necessary steps: (a) to identify the persons described in the cartographic sketches submitted by the petitioner, as well as their whereabouts; and (b) to pursue any other leads relevant to petitioner's abduction and torture.

b.

DIRECTING the incumbent Chief of the Philippine National Police, or his successor, and the incumbent Chief of Staff of the Armed Forces of the Philippines, or his successor, to extend assistance to the ongoing investigation of the Commission on Human Rights, including but not limited to furnishing the latter a copy of its personnel records circa the time of the petitioner's abduction and torture, subject to reasonable regulations consistent with the Constitution and existing laws.

c.

Further DIRECTING the incumbent Chief of the Philippine National Police, or his successor, to furnish to this Court, the Court of Appeals, and the petitioner or her representative, a copy of the reports of its investigations and their recommendations, other than those that are already part of the records of this case, within ninety (90) days from receipt of this decision.

d.

Further DIRECTING the Commission on Human Rights (a) to furnish to the Court of Appeals within ninety (90)

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days from receipt of this decision, a copy of the reports on its investigation and its corresponding recommendations; and (b) to provide or continue to provide protection to the petitioner during her stay or visit to the Philippines, until such time as may hereinafter be determined by this Court.

5.)

REFERRING BACK the instant case to the Court of Appeals for the following purposes:

a.

To MONITOR the investigations and actions taken by the PNP, AFP, and the CHR;

b.

To DETERMINE whether, in light of the reports and recommendations of the CHR, the abduction and torture of the petitioner was committed by persons acting under any of the public respondents; and on the basis of this determination--

c.

To SUBMIT to this Court within ten (10) days from receipt of the report and recommendation of the Commission on Human Rights--its own report, which shall include a recommendation either for the DISMISSAL of the petition as against the public respondents who were found not responsible and/or accountable, or for the APPROPRIATE REMEDIAL MEASURES, AS MAY BE ALLOWED BY THE AMPARO AND HABEAS DATA RULES, TO BE UNDERTAKEN as against those found responsible and/or accountable.

Accordingly, the public respondents shall remain personally impleaded in this petition to answer for any responsibilities and/or accountabilities they may have incurred during their incumbencies.

Other findings of the Court of Appeals in its Decision dated 26 August 2009 in CA-G.R. SP No. 00036-WRA that are not contrary to this decision are AFFIRMED.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Mendoza, and Sereno, JJ., concur.
Brion, J., on official leave.

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[1] Under Rule 45 of the Rules of Court, in relation with Section 19 of The Rule on the Writ of Amparo (A.M. No. 07-9-12-SC) and Section 19 of the Rule on the Writ of Habeas Data (A.M. No. 08-1-16-SC).

[2] Penned by Associate Justice Noel G. Tijam with Associate Justices Arturo G. Tayag and Normandie B. Pizarro, concurring. Rollo, pp 50-82.

[3] Id. at 81-82.

[4] Id. at 53.

[5] Id.

[6] A sister organization of BAYAN-USA.

[7] Affidavit of Petitioner. CA rollo, p.11.

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[8] A digital multi-media player combined with a hard drive.

[9] Supplemental Affidavit of Petitioner. CA rollo, p. 194.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

[16] Id.

[17] Id. at 12.

[18] Id.

[19] Id.

[20] Id.

[21] Id.

[22] Id. at 54.

[23] Id. at 12-15.

[24] Id.

[25] Id.

[26] Id. at 12.

[27] Id. at 12-13.

[28] Supplemental Affidavit. Id. at 194-196.

[29] Id. at 14-15 and 195.

[30] Id. at 15.

[31] Id. at 15-16. Per investigation of the police, Juanito Carabeo was released by the abductors on 24 May 2009 along the highway of Barangay Santa Cruz, Lubao, Pampanga. His exact wherabouts are, however, presently unknown. According to the police, Carabeo has 7 outstanding warrants of arrest. As of the time of this decision, no news relative to the release and/or whereabouts of John Edward Jandoc is obtainable.

[32] Meaning, subscriber Identity Module.

[33] The email address is "riveradong@yahoo.com," with the password "dantes2009." CA rollo, at 196.

[34] The book was "Love in the Times of Cholera" by Gabriel Garcia Marquez, and a copy of a Bible of the King James Version. Id. at 195.

[35] Id. at 15.

[36] Id.

[37] Id.

[38] Id. at 2-18. Shortly after filing the petition, petitioner went to the United States to recuperate from her experience. She came back to the Philippines on 30 July 2009 to testify on the affidavits attached to her petition before the Court of Appeals, but returned immediately to the United States.

[39] The interrogator identified only by the name of "James" was not similarly impleaded as a co-respondent.

[40] CA rollo, pp. 7-8.

[41] Supreme Court En Banc Resolution, id. at 19-21.

[42] Id.

[43] No return was filed by or for the unknown respondents "Dex," "Rose" and "RC." Id. at 35-98.

[44] Id. at 56.

[45] Id. at 18 and 90.

[46] Id.

[47] Id. at 58.

[48] Id. at 59.

[49] Id. at 17.

[50] Id. at 60-61.

[51] Id. at 60.

[52] Id. at 42-43

[53] Id. at 43-55.

[54] Id.

[55] Id. at 18 and 90.

[56] Id.

[57] Id.

[58] Id.

[59] Id.

[60] Id. at 113

[61] Id. at 18.

[62] Affidavit of PC/Supt. Leon Nilo A. Dela Cruz. Id. at 83.

[63] Id. at 18-90.

[64] Initial Report of Special Investigative Task Group CAROJAN, id. at 112-114.

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[65] Id. at 113-114.

[66] See Letters sent by PC/Supt. Gil C. Meneses, head of Special Investigative Task Group CAROJAN, to Sister Cecile Ruiz of Karapatan and the Alliance for Advancement of People's Rights. Id. at 93-94.

[67] Id. at 54.

[68] See Initial Report dated 26 May 2009; First Progress Report dated 27 May 2009; Second Progress Report dated 1 June 2009; Third Progress Report dated 8 June 2009, on the alleged abduction and torture of Melissa Roxas, Juanito Carabeo and John Edward Jandoc, prepared by Task Group CAROJAN, id. at 112-120. See also Investigation Report dated 29 June 2009, id. at 179-185.

[69] Id. at 185.

[70] Counter-Affidavit of Secretary Gilbert Teodoro, id. at 121-123.

[71] Id. at 124.

[72] Id. at 122.

[73] Id. at 77.

[74] Affidavit of General Victor S. Ibrado, id. at 73-74.

[75] Affidavit of Lt. Gen. Delfin N. Bangit, id. at 79-80.

[76] Affidavit of Maj. Gen. Ralph A. Villanueva, id. at 81-82.

[77] Id. at 107-110.

[78] Id. at 110.

[79] Rollo, pp. 50-82.

[80] Id. at 63-64.

[81] Id. at 64.

[82] Id. at 64-65.

[83] Id. at 67.

[84] Id. at 69-71.

[85] Id. at 81-82.

[86] Id. at 80-81.

[87] Id.

[88] Id. at 81-82.

[89] Id. at 71-72.

[90] Id. at 73.

[91] Id. at 71-72.

[92] Id. at 73.

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[93] Id. at 81.

[94] Id. at 75-77.

[95] Id. at 2-40 and 7.

[96] Id.

[97] Id. at 15. See also CA rollo, p. 5.

[98] Id. at 17.

[99] Id. at 38.

[100] See Separate Opinion of Associate Justice Arturo D. Brion in Rubrico v. Arroyo, G.R. No. 183871, 18 February 2010.

[101] Rubrico v. Arroyo, G.R. No. 183871, 18 February 2010.

[102] Id.

[103] Joaquin G. Bernas, S.J., Command Responsibility, 5 February 2007, http://sc.judiciary.gov.ph/publications/summit/Summit%20Papers/Bernas%20-%20Command%20Responsibility.pdf (visited 2 September 2010).

[104] Eugenia Levine, Command Responsibility, The Mens Rea Requirement, Global Policy Forum, February 2005 (www.globalpolicy.org.). As stated in Kuroda v. Jalandoni, 83 Phil. 171 (1949), the Philippines is not a signatory to the Hague Conventions.

[105] Iavor Rangelov and Jovan Nicic, "Command Responsibility: The Contemporary Law," http://www.hlc-rdc.org/uploads/editor/Command%20Responsibility.pdf (visited 2 August 2009)

[106] Razon, Jr. v. Tagitis, G.R. No. 182498, 3 December 2009, 606 SCRA 598, 602.

[107] Separate Opinion of Associate Justice Arturo D. Brion in Rubrico v. Arroyo, supra note 101.

[108] G.R. No. 180906, 7 October 2008, 568 SCRA 1, 42.

[109] Deliberations of the Committee on the Revision of the Rules of Court, 10 August 2007, 24 August 2007, 31 August 2007 and 20 September 2008.

[110] Supra note 106 at 620-621.

[111] Rollo, pp. 26-27.

[112] Id. at 15.

[113] CA rollo, p. 5.

[114] Id. at 187-193.

[115] Id. See Exhibit "G,' and its sub-markings.

[116] Rollo, pp. 75-76. As observed by the Court of Appeals:

As respondents correctly argued, considering that Petitioner is an American citizen who claimed to be unfamiliar with Fort Magsaysay or its immediate vicinity, she cannot possibly have any familiarity or actual knowledge of the buildings in or around Fort Magsaysay or the relative distances to and from the same. Petitioner failed to offer

a single evidence to definitely prove that she was brought to Fort Magsaysay to the exclusion of other places. It is also unfortunate that her two other companions Messrs. Carabeo and Jandoc, chose not to appear in Court to corroborate the testimony of the Petitioner.

[117] Id. at 81.

[118] Razon, Jr. v. Tagitis, supra note 106 at 688-689.

[119] Tapuz v. Del Rosario, G.R. No. 182484, 17 June 2008, 554 SCRA 768, 784-785.

[120] Section 1 of the Amparo Rule states:

Section 1. Petition. - The petition for a writ of Amparo is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extra-legal killings and enforced disappearances or threats thereof. (Emphasis supplied).

[121] Rollo, pp. 27-31.

[122] Id. at 76.

[123] Id. at 28.

[124] Yano v. Sanchez, G.R. No. 186640, 11 February 2010.

[125] Rollo, pp. 80-81.

[126] Annotation to the Rule on the Writ of Habeas Data, A.M. No. 08-1-16-SC, effective 2 February 2008 (pamphlet released by the Supreme Court), p. 23.

[127] Section 1 of the Habeas Data Rule states:

SECTION 1. Habeas Data. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party. (Emphasis supplied).

[128] CONSTITUTION, Article VIII, Section 18.

[129] In Razon, Jr. v. Tagitis, supra note 106 at 684, this Court, thru Associate Justice Arturo D. Brion, recognized the three (3) types of evidentiary difficulties faced by a petitioner in an amparo petition. In explaining the origins of such difficulties, Justice Brion explained:

"These difficulties largely arise because the State itself - the party whose involvement is alleged - investigates enforced disappearances. x x x."

[130] Section 17 of the Amparo Rule states:

SEC. 17. Burden of Proof and Standard of Diligence Required. - x x x.

x x x x.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty. (Emphasis supplied.)

[131] CA rollo, p. 185.

[132] Placed in a similar situation, the case of Rubrico v. Arroyo, supra note 101, instructs:

The seeming reluctance on the part of the Rubricos or their witnesses to cooperate ought not to pose a hindrance to the police in pursuing, on its own initiative, the investigation in question to its natural end. To repeat what the Court said in Manalo, the right to security of persons is a guarantee of the protection of one's right by the government. And this protection includes conducting effective investigations of extra-legal killings, enforced disappearances, or threats of the same kind. (Emphasis supplied).

[133] TSN, 30 July 2009, pp. 171-173.

[134] We follow suit with the recent case of Burgos v. Arroyo, G.R. No. 183711, 22 June 2010, where this Court, after having found significant lapses in the conduct of the police investigations, resolved to assign the CHR, as its directly commissioned agency, with the task of continuing the investigations on the disappearance of Jonas Burgos.

[135] Rollo, p. 33.

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